

Remarks:

According to the MPEP, a restriction between inventions is appropriate only when the inventions are shown to be distinct and when there would be a “serious burden” placed on the examiner to examine more than one invention in the same application. “If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.” MPEP 803 (emphasis added).

MPEP 803 provides that “[e]xaminers must provide reasons and/or examples to support conclusions” (Emphasis added.) The Office Action has not given sufficient reasons and/or examples in support of the imposition of this restriction requirement. In particular, according to MPEP § 808.02, “[w]here the related inventions as claimed are shown to be distinct under the criteria of MPEP § 806.05(c)-§ 806.05(i), the examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following [accepted reasons]:” (A) Separate classification thereof, (B) Separate status in the art when they are classifiable together, and (C) A different field of search. (Emphasis added.)

Because the Restriction Requirement merely asserts that the species are patentably distinct (Restriction Requirement, Page 2, Lines 4-5) and fails to provide any reasons to justify the restriction or to establish a *prima facie* showing of a serious search and examination burden, Applicant maintains that this requirement for election is improper. See MPEP 808.01(a) and 808.02. In addition, each alleged species relates generally to movement of dispensers and methods of dispensing. Consequently, the search of any of the elected species seems likely to uncover relevant art relating to the unelected species, and that any additional searching, which may be required, would not appear to place a “serious burden” upon the Examiner. In view of the foregoing remarks, Applicant traverses the restriction requirement and respectfully requests that the Examiner reconsider and withdraw the election of species requirement.

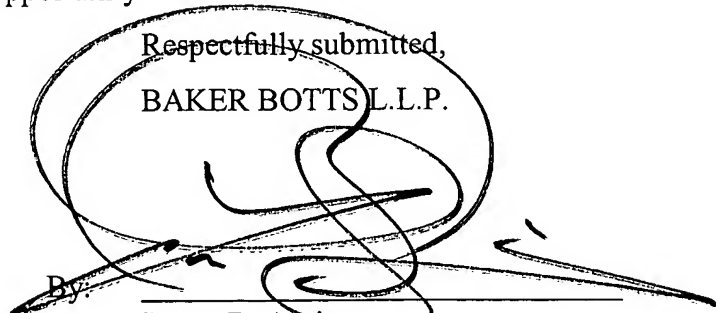
Conclusion:

Applicant respectfully submits that this application is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that an interview with Applicant’s representatives, either in person or by telephone, would expedite prosecution of this

application, we would welcome such an opportunity.

Respectfully submitted,
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